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Before the  
Federal Communications Commission  
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Review of the Commission's ) MM Docket No. 98-204  
Broadcast and Cable )  
Equal Employment Opportunity )  
Rules and Policies and ) MM Docket No. 96-16  
Termination of the )  
EEO Streamlining Proceeding )

To: The Commission

COMMENTS OF CRAWFORD BROADCASTING COMPANY

Crawford Broadcasting Company ("CBC"), by its attorney, respectfully submits these comments directed toward those portions of the Commission's Notice of Proposed Rule Making, FCC 98-305, released November 20, 1998, which consider exemptions from EEO rules for religious broadcasters. CBC is the umbrella under which a number of Commission radio licensees operate.<sup>1</sup> All CBC stations operate with religious formats, and therefore will be directly affected by the Commission's ultimate decision in this matter.

CBC agrees that religious broadcasters should have the right to establish religious belief (or affiliation) as a bona fide occupational qualification. However, the Commission's proposed definition of "religious broadcaster" is too narrow.<sup>2</sup>

The Commission's proposal to consider whether a religious broadcaster is non-profit in determining whether it qualifies for

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<sup>1</sup> CBC includes the corporate licensees and stations identified on the attachment hereto.

<sup>2</sup> CBC is aware of the terms of the Civil Rights act which prohibit religious discrimination by employers of 15 or more. These comments are directed toward the Commission's rules and its enforcement thereof.

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an exemption has no logical basis. While CBC and its subsidiaries are profit-making entities, their stations' programming uniformly espouse a religious, conservative Christian, philosophy. Many of the syndicated programs heard on CBC's stations are also carried on non-profit stations, and they both share a similar target audience. Moreover, there is no legal barrier to churches and other not-for-profit entities from owning commercial licenses and airing advertisements, e.g. WHUR(FM), owned by Howard University in Washington, DC. It is unlikely that the listening public is able to distinguish between a CBC station and one owned by a non-profit entity. In fact, some of the very best religious broadcast entities are for-profit. It should make no difference in terms of the Commission's oversight of employment whether the religious station is operated by a non-profit or a profit-making entity. Such a distinction, from the Commission's perspective, is arbitrary and unreasonable.

In the same vein, reference to a licensee's Articles of Incorporation may not assist the Commission in ascertaining the broadcaster's true nature. A company's Articles are often drafted to give it the broadest possible powers and have no reference to its actual practices. Many corporations functioning as religious broadcast entities have no such religious provisions in their charters, but are nonetheless committed and continuous religious broadcasters, perhaps in some cases even more so than non-profit organizations.

It is similarly irrelevant whether the licensee is a formal

religious establishment, such as a church or synagogue, or is an entity unrelated to such an establishment. CBC believes that the licensee's history and broadcast record is an important consideration for the Commission in its evaluation of the hiring exemption for religious broadcasters. CBC has been in existence almost 70 years, and encompasses non-profit work and broadcasting on radio and television, strong affiliation with Christian and religious schools and colleges, the dissemination and distribution of Christian literature, working with young people and summer camps for years, all with the purpose of disseminating a conservative Christian philosophy.

In this regard, CBC urges the Commission to consider the actual operations of the licensee's stations as determinative. If the operation of the station results in programming which is 50% or greater religious in nature on a daily basis, such performance should qualify the licensee as an exempt broadcaster without regard to any other factor. This amount would be determined by considering both talk and music programming.

CBC suggests that a broadcast licensee be able to establish its qualification for the religious broadcast exemption by demonstrating that it has met the 50% benchmark for the previous five years and makes a commitment to continue religious programming, 50% or more each day, for the period of license, eight years, subject to prior sale. Should the licensee fail to honor its commitment for more than a de minimis period of time, it would automatically lose its exemption.

The licensee could verify its commitment to religious purposes, both in terms of programming and promotion within the community, by delineating its policies with regard to sales, promotions and general marketing endeavors. All such practicing and viable religious entities form charitable joint ventures with community service organizations and provide considerable services to the community, whether on-air (via public service announcements and free program time), or off-air, in the marketplace, by raising money, generating gifts, or producing other tangible benefits to formal religious organizations. All such conduct in practice could be verified easily, and would be justification for establishing a bona fide religious broadcasting entity irrespective of non-profit status or Articles of Incorporation. The licensee would, wherever possible, show its broadcasting and community conduct to be consistent with its religious mission statement.

The Commission should bear the burden of proof in any dispute over the validity of a claim for religious broadcaster exemption. A licensee should be prima facie viewed as qualified and therefore exempt upon making any case or defense based on actual conduct in the marketplace and the content of its programming.

The determination of which positions at the station fall within this exception should be left to the discretion of the licensee. Every employee is a representative of the station. He or she deals with the public one way or another. Some employees, such as announcers, salespersons, secretaries and receptionists, have regular communication with the public, while others may do so

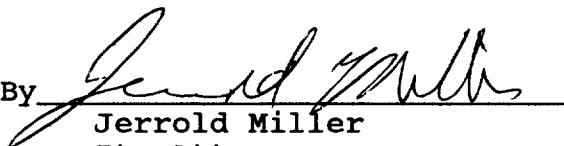
on an occasional basis, such as technical staff who may be involved in remote broadcasts. In any event, even a casual remark in a social occasion may be taken as reflective of the station as a whole. For these reasons, the licensee must be confident that all employees bear witness to the philosophy and beliefs espoused by the station.

Allowing religious broadcasters, as defined in these comments, to take a prospective employee's religion into account in the station's hiring decision, makes great sense and serves to enable these broadcasters to better accomplish their goals. CBC has demonstrated that for it, and for similarly situated broadcasters, an employee's religious beliefs are valid and indeed necessary considerations. Without beliefs which reflects the station's approach, employees will be unable to contribute fully to station operations and will be hampered in their participation in station functions and events.

CBC agrees with the Commission's conclusion that stations gain an advantage when their hiring pool encompasses the greatest number of applicants. However, for CBC's and similarly run stations an employee's religious belief is a bona fide occupational consideration. Such stations are not harmed by being able to limit their hiring to those applicants who possess the necessary qualifications.

Accordingly, the Commission should adopt rules expanding the definition of religious broadcaster for purposes of its EEO rules as proposed herein.

Respectfully Submitted,  
CRAWFORD BROADCASTING COMPANY

By   
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March 1, 1999

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CRAWFORD BROADCASTING COMPANY

Dontron, Inc.

KPBC(AM) Garland, Texas  
WYAA(FM) Crete, Illinois  
WYBA(FM) Lansing, Illinois  
WYCA(FM) Hammond, Indiana

Kiertron, Inc.

KBRT(AM) Avalon, California  
KCBC(AM) Riverbank, California

WMUZ Radio, Inc.

KJSL(AM) St. Louis, Missouri  
WMUZ(FM) Detroit, Michigan  
KSTL(AM) St. Louis, Missouri  
WEXL(AM) Royal Oak, Michigan  
WLLZ(AM) Monroe, Michigan

Kimtron, Inc.

WDCW(AM) Syracuse, New York  
WDCX(FM) Buffalo, New York  
WDJC(AM) Birmingham, Alabama  
WDJC-FM Birmingham, Alabama  
WDCD(AM) Albany, New York  
WDCD-FM Clifton Park, NY  
WDCZ(AM) Rochester, New York  
WDCZ-FM Webster, New York

KPHP Radio, Inc.

KKSL(AM) Lake Oswego, Oregon  
KKJY(AM) Lake Oswego, Oregon  
KKPZ(AM) Portland, Oregon

KLZ Radio, Inc.

KLZ(AM) Denver, Colorado  
KLDC(AM) Brighton, Colorado  
KLTT(AM) Commerce City, Colorado